

1 SENATE BILL NO. 48

2 INTRODUCED BY B. KEENAN

3 BY REQUEST OF THE LEGISLATIVE FINANCE COMMITTEE

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5 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING COUNSEL IN AN INVOLUNTARY MENTAL
6 HEALTH COMMITMENT PROCEEDING TO DETERMINE, IN CONJUNCTION WITH THE CLIENT, THAT
7 BECAUSE OF THE THREAT OF INJURY TO SELF OR OTHERS, EXPEDITED ACCESS TO TREATMENT IS
8 IN THE CLIENT'S BEST INTEREST; AMENDING SECTION 53-21-124, MCA; AND PROVIDING AN
9 IMMEDIATE EFFECTIVE DATE."

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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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13 **Section 1.** Section 53-21-124, MCA, is amended to read:

14 **"53-21-124. Detention of respondent pending hearing or trial -- jail prohibited.** (1) The court may
15 not order detention of a respondent pending the hearing unless requested by the county attorney and upon the
16 existence of probable cause for detention. Counsel must be orally notified immediately. Counsel for the
17 respondent may then request a detention hearing, which must be held immediately.

18 (2) In the event of detention, the respondent must be detained in the least restrictive setting necessary
19 to ensure the respondent's presence and ensure the safety of the respondent and of others as provided in
20 53-21-120.

21 (3) If the respondent is detained, the respondent has the right to be examined additionally by a
22 professional person of the respondent's choice, which may not depend on the respondent's ability to pay, and
23 the respondent must be informed of this right. Counsel may determine, in conjunction with the client, that
24 because of the threat of injury to self or others, expedited access to treatment is in the client's best interest.
25 Unless objection is made by counsel for the respondent, the respondent must continue to be evaluated and
26 treated by the professional person pending the hearing.

27 (4) A respondent may not be detained in a jail or other correctional facility pending a hearing or trial to
28 determine whether the respondent should be committed to a mental health facility."

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30 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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